



General Assembly

Distr.
GENERAL

A/AC.96/896
4 May 1998

Original: ENGLISH

EXECUTIVE COMMITTEE OF THE
HIGH COMMISSIONER'S PROGRAMME

Forty-ninth session

REPORT OF THE TENTH MEETING OF THE STANDING COMMITTEE (2-3 February 1998)

I. INTRODUCTION

1. The meeting was opened by the Chairman of the Executive Committee, His Excellency, Ambassador Björn Skogmo (Norway). The Chairman welcomed non-governmental organization (NGO) delegations attending the Standing Committee for the first time as observers. The Chairman also informed the Committee of the need to reschedule the plenary session of the Executive Committee to 5 to 9 October 1998. Delegations agreed to this proposal.

II. ADOPTION OF THE AGENDA OF THE TENTH MEETING

2. The *Provisional Annotated Agenda* (EC/48/SC/CRP.2) was adopted without amendment.

III. DEPUTY HIGH COMMISSIONER'S STATEMENT

3. The Deputy High Commissioner then delivered an opening statement to the Standing Committee. Following this statement, the Chairman echoed the Deputy High Commissioner's concern over the recent abduction of the Head of UNHCR's Office in Vladikavkaz, North Ossetia.

IV. PROGRAMME AND FUNDING MATTERS

4. The Standing Committee had before it a document entitled, *Overall Programme and Funding Projections for 1997 and 1998* (EC/48/SC/CRP.4) and a related draft decision.

5. The agenda item was introduced by the Director of the Division of Operational Support. The focus of his presentation was the situation of General Programmes. He noted that the accounts for 1997 were being finalized. Provisional estimates indicated that expenditure under General Programmes would be in the order of \$ 385 million, against an approved target

GE.98-01176

of \$ 452.6 million; this level of expenditure reflected a serious shortfall in contributions, and consequent restrictions in the use of the Programme Reserve, the Emergency Fund and the Voluntary Repatriation Fund. It was expected that the carry-over into 1998 would perhaps be between two and five million dollars. For 1998, with such a small carry-over, there would be the need for increased contributions to reach the approved, but reduced, General Programmes target of \$ 440 million. In the initial part of the year UNHCR would need to be very cautious as regards authorizing expenditure, until such time as the Office was confident that increased contributions would be forthcoming. In late 1997, UNHCR had therefore adopted a rather restrictive approach in relation to initial 1998 authorizations.

6. Managing the gap between the approved General Programmes target, and contributions, received or expected, was difficult, staff intensive and frustrating. General Programmes were UNHCR's core programmes. The Director then recalled some of the conclusions that had come out of the informal consultations on UNHCR's budget structure in 1995. He noted, in particular, that there was a clear, if unwritten understanding, that UNHCR would not propose, and the Executive Committee would not approve, a General Programmes target whose needs would not be fully funded. It was for this reason that UNHCR had proposed for 1998 a reduced General Programmes target of \$ 440 million. While UNHCR would continue its efforts to increase still further its effectiveness, he underlined the need to ensure that UNHCR's core programmes were funded on a more stable and predictable basis.

7. The Head of the Funding and Donor Relations Service focused his comments on two areas: an overview of funding during 1997 and the outlook for 1998. He said that UNHCR's acute concerns about the adequate financing of the Office's core, statutory activities, the General Programmes, would dominate both areas.

8. Total contribution income in 1997 for all of UNHCR's activities was \$ 805 million. The comparable total for 1996 was \$ 970 million, although one had to keep in mind that UNHCR's global requirements also dropped, from \$ 1.4 billion in 1996 to \$ 1.2 billion in 1997.

9. Of total 1997 contributions, \$ 320 million was given to General Programmes, a drop of \$ 31 million from 1996. This reduction could be attributed to a decline in contribution levels from several major donors, combined with the effects of the strength of the United States dollar. As regards 1998, the Head of the Funding and Donor Relations Service recalled that the Executive Committee had approved the 1998 target of \$ 440 million. With reduced levels of both contributions and other income, UNHCR risked not being able to adequately finance even this reduced target. This would have serious consequences for refugees and the work of the Office. To help redress the serious situation with General Programmes, the Head of the Funding and Donor Relations Service proposed "an informal pact". The premise of this "informal pact" was that, since debate on UNHCR's budget structure in 1995, Governments had lost touch somewhat with the nature and the importance of General Programmes. As UNHCR's part of this "pact", the Office proposed to launch, over the next few months, a campaign consisting of readable, concise, jargon-free, practical documentation on General Programmes, an appeal by the High Commissioner, both formal and informal discussions, and debate. The other side of the pact was that UNHCR hoped that donors would give the funding of General Programmes the priority they deserved, and to

this end he asked representatives to transmit to their capitals the strongest possible recommendations for considerably increased levels of support.

10. As regards 1997 Special Programme, funding which donors made available amounted to \$ 485 million. Adequate levels of finances were made available for UNHCR's operations in the Great Lakes region of Africa, the Horn of Africa and programmes in Asia and Central America. Funding had been tight for operations in former Yugoslavia and the Commonwealth of Independent States countries. UNHCR had been particularly handicapped by lack of contributions for repatriations in Africa, to Mali and the Niger, to Angola and most recently to Liberia. In 1998, UNHCR, at this stage, required \$ 635 million for 16 major, and some other special operations and repatriations. The Head of the Funding and Donor Relations Service noted that carry-overs in Special Programmes from 1997 to 1998 again would be down considerably. He urged the Office's donors to step in quickly with funding in the first quarter in order to keep operations afloat, especially for the funding of repatriations in Africa, the two major programmes in the Great Lakes region of Africa and operations in the Commonwealth of Independent States countries and former Yugoslavia.

11. The Head of the Funding and Donor Relations Service concluded by thanking Governments for their support to date and stressed that as UNHCR looks ahead to the year 2000 and beyond, the High Commissioner required a continuation of financial support that was adequate, equitably apportioned and timely.

12. In response, a number of delegations of asylum countries expressed their concern and stressed the consequences that underfunding the General Programmes would have on their nations. One delegation in particular suggested UNHCR launch a more aggressive public information strategy in donor countries. Other delegations also expressed their concern on the funding of UNHCR's General Programmes and appealed to donors to redress the situation. Many supported the proposal of an "informal pact" made by the Head of the Funding and Donor Relations Service and some delegations indicated they would maintain or increase their level of support. Several delegations posed a number of more technical questions on budget figures for both General and several Special Programmes, while one delegation suggested that UNHCR should re-circulate the documentation from the 1995 SCAF debate on budget structure in order to remind member States of the nature and importance of General Programmes.

13. One amendment to the related draft decision on Programme and Funding was proposed. The Standing Committee adopted the decision as amended (attached in annex).

V. SITUATION REPORTS

14. In introducing the *Update on Regional Developments in Central Asia, Southwest Asia, North Africa and the Middle East* (EC/48/SC/CRP.3), the Director of the Regional Bureau for Central Asia, Southwest Asia, North Africa and the Middle East (CASWANAME) reported on UNHCR activities in the region generally and also provided clarification and additional information on issues which arose from UNHCR's recent publication of *The State of the World's Refugees*. In relation to Afghanistan, the Director emphasized the need for the international community to find a solution to the fighting between various factions which continues to affect many parts of the country.

He also drew attention of the Standing Committee to the fact that as a result of financial constraints being experienced by the Organization, UNHCR had to reduce its funding levels in the Islamic Republic of Iran and Pakistan, as well as in many other countries covered by the Bureau.

15. In relation to issues raised by some Governments and authorities about the publication of UNHCR's biennial report, *The State of the World's Refugees; a Humanitarian Agenda*, the Director clarified the Office's position on the status of the Palestinian refugees, reiterating that UNHCR fully acknowledged the right of return of the Palestinian refugees as recognized in various United Nations resolutions. Further, he stated that Palestinians cannot be considered *de jure* as stateless persons, nor did the Office ever intend to make any such implication.

16. Following the Director's introductory statement, several delegations intervened with comments and questions relating to the update on regional developments in the CASWANAME region. Several delegations commented on the situation regarding Iraq. A number of them referred to the growing outflow of refugees from Iraq. The need for a comprehensive regional approach to deal with their needs was noted and many delegations welcomed UNHCR's initiatives in this regard. Three delegations referred to the situation of Turkish refugees of Kurdish origin in northern Iraq and commended UNHCR's efforts on their behalf. One delegation stated that a group of these refugees located in Ain Sufni should be relocated elsewhere in northern Iraq, thereby encouraging more of these refugees to repatriate voluntarily. Efforts to create conditions conducive to the return of these refugees to Turkey were highlighted. The same delegation cautioned UNHCR that some of the humanitarian aid provided to the Ain Sufni population may be diverted to the Kurdistan Workers Party (PKK). One delegation underlined the need for UNHCR to maintain a strong presence in Iraq in view of the unsettled situation in that country.

17. Several interventions related to the situation in Afghanistan. Many delegations referred to the situation of women and girls in Afghanistan and encouraged UNHCR to integrate greater gender concern into all aspects of its programme and undertake activities which will directly benefit women and girls. Clarification was requested on UNHCR's involvement in the United Nations strategic framework in Afghanistan and cooperation with other United Nations agencies through a common approach. The Director, in his response to delegations, replied that UNHCR assistance activities are in line with the United Nations strategic framework for assistance in Afghanistan. Many delegations expressed support for UNHCR's voluntary repatriation and reintegration programme in Afghanistan, while one delegation emphasized the need to maintain the practice of first asylum for those who continue to need it. One delegation felt that there was a need for more realistic projections on repatriation to Afghanistan. Questions were also raised on the reasons for which the Grameen Bank Programme in Afghanistan had to be discontinued and support was expressed for UNHCR's efforts to continue its group-guaranteed lending projects which directly benefit women. One delegation expressed specific concern about the instability in Afghanistan, which is considered a potential threat to neighbouring countries of the Commonwealth of Independent States. On the issue of financial constraints referred to by the Director, one delegation suggested that there should be flexibility to reallocate resources from the Special Programme relating to Afghan repatriation to the General Programme relating to care and maintenance of the Afghan refugees in neighbouring countries.

18. A number of delegations made interventions on UNHCR's activities in Central Asia, commending UNHCR for the successful repatriation of Tajik refugees from northern Afghanistan and UNHCR's capacity-building efforts in the region. One delegation suggested that thematic topics, such as capacity-

building, be included as specific items in the regional reviews presented to the Standing Committee. Another delegation asked the Bureau to ensure that UNHCR's capacity-building activities in Central Asia be coordinated, so as to be consistent with related efforts in other parts of the CIS region and be given similar resource support. Delegations expressed support for the CASWAME process and commended UNHCR's efforts and initiatives in this regard.

19. On operations in the Western Sahara, one delegation reminded UNHCR of the need to ensure that any mention of figures and statistics in UNHCR's documents in relation to the refugees in the Tindouf camps bear reference to the qualifications stated in the High Commissioner's report to ECOSOC in 1997. The same delegation also referred to the need for a mass information campaign to advise refugees in camps of the situation awaiting them upon return and to prepare them for repatriation to their territory. A few delegations expressed satisfaction concerning the implementation by UNHCR of its Plan of Action for Western Sahara, but expressed concern about the total budget of \$ 50 million envisaged by UNHCR for this operation, which some considered high. One delegation referred to the progress made so far in the repatriation of refugees from Mali and Niger and requested that until all the refugees have repatriated, UNHCR should continue to provide them with food and assistance, since WFP had withdrawn its food assistance at the end of 1997. One delegation welcomed the appointment of a Regional Policy Officer (for children) and asked what issues would be covered by that officer's brief and how his/her work would relate to other capacity-building activities in the Central Asian region. Another delegation emphasized the need for UNHCR and UNWRA to cooperate with each other with regard to the Palestinian refugees, especially in areas outside UNWRA's area of operation, particularly in Yemen and North Africa.

VI. REPORTS RELATING TO OVERSIGHT

20. The Director of the Division of Operational Support introduced *Audit Follow-up: Procurement and Asset Management* (EC/48/SC/CRP.5). He noted that the improvement achieved in recent years in the submission of purchasing plans has been sustained by the field offices. UNHCR continues to follow up very closely with the offices that have not submitted plans. When the Supply Chain project is fully implemented, UNHCR foresees that the necessary information technology (IT) systems will be in place to permit Field Offices to budget and assign procurement responsibility for their material and contractual requirements, thus adding even more value to this exercise.

21. The Director acknowledged the limitations of the MINDER asset management system as described by the external auditors. He pointed out, however, that the limitations of MINDER extended beyond the software to the need to functionally integrate the staff responsible for managing the asset management system. The Supply Chain project was exploring ways of capturing assets at the point when they become UNHCR property. Bar-coding of products by the supplier is one method that is now being piloted and other will be explored. In the longer term, UNHCR envisages greater integration of all aspects of the Supply Chain through the new computer systems for which UNHCR is now specifying the detailed requirements. The Field Asset Control System of the Department of Peace-keeping Operations is one option under consideration and a mission will go to New York in February to review the system.

22. In response one delegation stressed the importance of knowing the full procurement picture, including local and implementing partner purchases.

23. The Director confirmed that UNHCR was working very hard to achieve obtain a full picture of procurement by UNHCR globally. He further advised the

Committee that the Supply and Transport Section was organizing its annual informal meeting with the donors and the date of which would be advised shortly.

24. An observer delegation, commenting on the *Report of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to the General Assembly at its Fifty-Second Session on the Financial Reports and Audited Financial Statements, and Reports of the Board of Auditors* (extract reproduced in EC/48/SC/CRP.1), requested further clarification on recommended audit procedures and suggested that some NGOs might need further capacity-building and funding to comply with audit certification requirements.

VII. MANAGEMENT, FINANCIAL AND HUMAN RESOURCES MATTERS

25. Under this item on the agenda, the Standing Committee was presented with an oral report on outsourcing and an *Update on Project Delphi* (EC/48/SC/CRP.6). UNHCR's Director for Change could not be present at the meeting as he was away on mission in Vladikavkaz, in North Ossetia, in connection with the recent abduction of the Head of UNHCR's Office in that city. In his absence, the Chief of the Change Management Support and Coordination Unit (CMSCU) introduced both items.

26. The Chief of CMSCU first gave a brief oral update on the findings contained in a report on outsourcing prepared by a consultant at UNHCR's request. The update included a definition of outsourcing and gave examples of some activities already outsourced by UNHCR. Based on the recommendations in the report, the Chief of CMSCU listed follow-up actions that had been prepared, allocating responsibilities among the various entities concerned in UNHCR.

27. The Chief of CMSCU then briefly commented on the *Update on Project Delphi* and its Annex. He informed delegations that over the past four months steady progress on reform within UNHCR had continued and Project Delphi had now reached an advanced stage. With more than half of the 100 actions in the Implementation Plan completed and many of the others well underway, he informed delegations that it was no longer necessary to retain the Delphi umbrella. He went on to explain that the approach in 1998 would be two-fold:

- i) to devote resources to moving forward with those reform initiatives considered most crucial to enhancing the effectiveness of the Organization; and
- ii) to ensure that the remaining work was mainstreamed into the existing structure of UNHCR.

28. A number of delegations then took the floor for a variety of comments. There was general concurrence with the priorities for 1998. One delegation stressed that decentralization must be accompanied by clear reporting lines to Headquarters. In his reply to delegations' comments, the Chief of CMSCU emphasized that decentralization would not derogate Headquarters from its responsibilities, which included monitoring and overall control. To some delegations asking about measuring the impact of UNHCR's activities, the Chief of CMSCU explained that the new Operations Management System (OMS) would focus on objective-setting and impact assessment. In reply to a question from one delegation, the Director of the Division of Human Resources Management (DHRM) explained that the Career Management System (CMS) implied a cascade of objective-setting starting at the top of the organization. She further explained that while the focus was on achievement of objectives, it was recognized that in some cases objectives would not be met because, for example, of external factors. Several delegations enquired about the move of

the Office of the Director of Operations for the Great Lakes region of Africa back to Headquarters. The Deputy High Commissioner explained that this decision had been taken because the situation in that region had evolved considerably and that the operation currently required a great deal of attention from the Executive Office, as well as interface with Permanent Missions in Geneva and other United Nations organizations. Moreover, he explained that in the past year the operational requirements had changed because there had been a major reduction in the caseload. He stressed, however, that the Director of Operations would continue to spend a considerable amount of his time in the region.

VIII. PROTECTION/PROGRAMME POLICY ISSUES

29. The item on new approaches to reintegration and UNHCR's contribution to rehabilitation programmes in post-conflict societies was introduced by the Director of the Division of Operational Support. He took as his point of departure the remarks that the Chairman of the Executive Committee had made when he summarized the interventions in the plenary debate at the last Executive Committee meeting related to the annual theme: repatriation challenges. He also recalled the observations of the High Commissioner on the same issue in her concluding statement to the Executive Committee. As agreed by the Committee at its Planning Meeting (December 1997), the basis for the further deliberations on this item would be the relevant sections of document A/AC.96/887, *Annual Theme: Repatriation Challenges*. The Director also gave an update on developments since October 1997. He mentioned that the whole question of reintegration was an important focus of the High Commissioner's retreat with her senior staff the weekend of 31 January to 1 February 1998. Since the plenary, UNHCR has had a workshop on reintegration with participation of field colleagues with direct experience, for example in Angola, Mozambique and Tajikistan. The purpose was to review a working draft of a practical guide for UNHCR field staff on post-conflict reintegration. Moreover, UNHCR continued to consolidate its relations with the regional financial institutions, especially the Asian Development Bank and the African Development Bank, as well as the Islamic Development Bank. UNHCR has also continued its contacts with the World Bank and the International Monetary Fund (IMF) on this subject.

30. The issue of the mutual relationship between UNHCR's protection activities in the country of origin and its involvement in reintegration and rehabilitation was also raised by delegations. In the same context, a delegation asked about the respective roles of UNHCR and UNHCHR. Another issue raised by delegations was how to find a balance between the need for a speedy return and the need for a careful involvement in rehabilitation activities. It was pointed out by delegations that exit strategies and related time frame should be developed with an appropriate flexibility within the overall country rehabilitation framework and in the light of the local context and constraints. One delegation asked how Governments could assist UNHCR in abiding by its phase-out timetable. Delegations recommended that local capacity-building should be an integral part of the UNHCR's intervention, but limited to areas where it has comparative advantages (for example, protection). Support was also expressed by delegations for the preparation by UNHCR of an Operational Framework for UNHCR's intervention in repatriation/reintegration operations and for strengthening UNHCR's technical/planning back-up in this field.

31. It was recognized that, in order to sustain the reintegration process, UNHCR and development partners should work together, from the earliest stage, through a "horizontal" approach and within an agreed division of labour. It was recognized, however, that the operational effectiveness and efficiency of inter-agency cooperation is also contingent upon the willingness of other partners (international financial institutions, other development agencies) to become involved from an early stage. It was felt that reintegration activities should be more visible in consolidated appeals.

32. It was agreed, given the importance of the subject, that the Standing Committee would revisit the subject in the context of its consideration of the item related to phase-out strategies at its eleventh meeting in April 1998.

IX. ANY OTHER BUSINESS

33. In returning to the issue of how to address the modalities for taking up the proposed topic of the economic and social impact of massive refugee populations on host developing countries, as well as other countries, the Chairman recalled the four sub-items proposed under this general heading: possible principles for action; UNHCR's mandate in this regard; practical measures for increasing coordination between emergency and national structures; and a quantitative assessment on the basis of special case studies.

34. The Chairman then suggested that the fourth sub-item could be considered during the September 1998 meeting of the Standing Committee, leaving for consideration, if the Standing Committee so decided, the other proposed sub-items in 1999. The discussions in September 1998, he explained, would be based on a preliminary analysis of existing documentation, including Round Table and Consultative Group reports, and Country Strategy Notes for one or two countries hosting significant refugee populations. Further, he suggested that the World Bank and UNDP could contribute to these discussions, thereby allowing for a preliminary discussion of UNHCR's mandate in addressing the economic and social impact of refugees. Delegations agreed to this proposal.

35. In addition, the Chairman invited delegations to submit suggested topics for the annual theme to the Secretariat by 16 March 1998, since the subject of the annual theme would be initially addressed at the April 1998 meeting of the Standing Committee.

36. There being no further business, the Chairman closed the meeting.

DECISION ADOPTED BY THE TENTH STANDING COMMITTEE

DECISION ON PROGRAMME AND FUNDING PROJECTIONS

The Standing Committee,

Recalling the decision of the forty-eighth session of the Executive Committee on programme, administrative and financial matters,

(a) Notes that the overall needs for 1998, based on currently known or anticipated requirements, now amount to \$ 1,098.4 million, of which projected needs for General Programmes remain at \$ 440 million, as approved by the Executive Committee at its forty-eighth session, and those for Special Programmes at \$ 635.4 million, while the remaining \$ 23 million pertain to the United Nations Regular Budget;

(b) Expresses serious concern at the trend in the level of contributions to General Programmes and, in view of the importance of the full funding of these Programmes, acknowledges the appeal of the High Commissioner to donor Governments for further early announcements of contributions to these Programmes, as well as to Special Programmes, in a spirit of equitable burden-sharing, so as to permit the continuation and timely implementation of these Programmes, and encourages the Secretariat to provide quarterly to the Standing Committee the updated reports on revenues and expenditures, as well as revenue forecasts, with details of the expected impact on these Programmes.



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Distr.
GENERAL

A/AC.96/897
3 July 1998

Original: ENGLISH

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REPORT OF THE ELEVENTH MEETING OF THE STANDING COMMITTEE (28-29 April 1998)

I. INTRODUCTION

1. The meeting was opened by the Vice-Chairman of the Executive Committee, His Excellency, Ambassador Victor Rodrigues Cedeño (Venezuela). The Vice-Chairman informed delegations that the delegations of the Republic of Moldova, Bosnia and Herzegovina, the Syrian Arab Republic and Ukraine had requested to participate in meetings of the Standing Committee during 1998 as Observers and suggested that their participation begin immediately, in line with the Executive Committee's decision on Observer participation taken in 1997. Delegations agreed to this proposal.

II. ADOPTION OF THE AGENDA OF THE ELEVENTH MEETING AND THE REPORT OF THE TENTH MEETING

2. The Agenda (EC/48/SC/CRP.7) was adopted without revision. The draft report of the tenth meeting was adopted with one amendment. The amendment replaced reference to the acronym "PKK" in paragraph 16 of the report with "Kurdistan Workers Party".

III. DEPUTY HIGH COMMISSIONER'S STATEMENT

3. The Deputy High Commissioner then delivered an opening statement to the Standing Committee, drawing the attention of delegations to the continuing captivity of the Head of UNHCR's Office in Vladikavkaz, North Ossetia. He also informed delegations of a silent march to be held the next day in support of the abducted Mr. Vincent Cochetel, as well as in solidarity with other humanitarian workers working under dangerous conditions. Delegations were invited to join UNHCR staff in this demonstration.

IV. PROGRAMME AND FUNDING MATTERS

4. The Standing Committee had before it an *Update on Programme and Funding Projections for 1998* (EC/48/SC/CRP.11) and a *Review of General Programmes* (EC/48/SC/CRP.12).

5. The agenda item was introduced by the newly appointed Director of the Division of Operational Support. The focus of his presentation was the funding situation for General Programmes and the steps that the Office was taking to bridge the gap between needs and expected resources. The Director informed delegations that it had since become clear that UNHCR would have problems living within expected resources and that UNHCR had been looking at further budgetary reductions, not only in programmes and activities but also in administrative support costs. At this stage, the Director stated, it is not proposed to recommend a reduction in the level of the General Programmes target. As regards the funding situation for Special Programmes, the Director said that this was also preoccupying.

6. The Head of the Funding and Donor Relations Service, focused his remarks on the funding problems presently facing the Office, informing delegations that on 28 April 1998, UNHCR had received \$ 337 million in contributions for 1998, fully \$ 100 million less than that time last year. He named with six guiding principles on funding: the need for contributions early in the year; the importance of modest but adequate carry-overs; the necessity of stable and regular funding; the requirement of financial support for UNHCR as it reduces in size; the essential nature of priority financial support to core, statutory operations; and finally, the urgency of a review of the volume and diversity of donor reporting requirements.

7. In response to these statements, a number of Delegations expressed support for UNHCR and their understanding of the problems facing the Office and their concern that priority activities be properly managed. A number of delegations said that UNHCR's budget structure needed to be reviewed, including the distinction between General and Special Programmes. Concern was expressed at the level of funding for General Programmes. It was also felt that too many core activities were being funded under Special Programmes. A number of Governments, including one Observer (NGO) delegation, expressed concern that activities for women and children, were suffering. Several delegations called for an analysis of UNHCR's financial problems. Other delegations discussed the six points mentioned by the Head of Funding and Donor Relations. Some speakers commented on the Office's procedures for issuing appeals and took note of UNHCR's intention to issue an annual global appeal. Finally, several Governments announced new contributions, or their intention to pledge in the near future.

8. In responding to these interventions, the Secretariat noted the request for a further review of the budget structure and action, in the form of consultations, was promised. It was noted, however, that restructuring the budget was not going to solve the financial crisis.

V. SITUATION REPORTS

9. The Standing Committee had two regional reviews to consider under this agenda item: an *Update on Regional Developments in Europe* (EC/48/SC/CRP.9) and an *Update on Regional Developments in the former Yugoslavia* (EC/48/SC/CRP.10).

A. Regional developments in Europe

10. The Deputy Director of the Bureau for Europe introduced the regional review of Europe. He expressed concern about tendencies in Western Europe to focus on control measures which result in the curtailing of access to asylum procedures.

11. The Deputy Director reviewed recent developments in Central Europe and emphasized the importance of partnerships with other organizations and institutions, particularly the European Union. In the countries of the Commonwealth of Independent States, progress was notable, for example in the field of legislation, but also the process itself had moved forward understanding and helped to promote dialogue and cooperation. Partnerships with the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM) and the Council of Europe have been very much enhanced through the process.

12. The Deputy Director also highlighted key features of UNHCR's operations in Eastern Europe, the first relating to an "integrated" approach to conflict resolution, the second concerning partnerships not only in the context of conflict resolution but also in interfacing with development agencies and the third, to redirect and reprioritize activities in many of UNHCR programmes in the countries of the Commonwealth of Independent States in the post-emergency phase.

13. Several delegations expressed their anger and concern with respect to the abduction of Mr. Cochetel, and expressed sympathy for his wife and family. This led to discussion of the security situation for staff working in the Northern Caucasus and other such regions. One delegation stated there could be "no business as usual" there until Mr. Cochetel was released. Another delegation said its Government was making every effort to resolve this situation, despite very complex circumstances in the Northern Caucasus, and expressed the hope that Mr. Cochetel would be released in the near future.

14. Despite obvious obstacles arising from the abduction to implementation of programmes in the Russian Federation, delegations made several positive comments on progress made in the implementation of the Programme of Action. Emphasis was put on the NGO sector. One delegation reported on various improvements in legislation and protection, including enabling UNHCR access to the airport. The delegation underlined their understanding that closer cooperation with NGOs was vital and said they had specific plans to further such cooperation. Another delegation supported the integrated approach taken in Crimea and appreciated the assistance received from UNHCR. An increased contribution from last year to the CIS Appeal was announced by one delegation, earmarking a portion of the contribution for the NGO Fund, and another confirmed its contribution, urging others to contribute also.

15. A comment was made that UNHCR should concentrate on promoting the well-being of those under its "core mandate" in the countries of the Commonwealth of Independent States. The Deputy Director responded by outlining progress made with respect to refugee protection in some countries in the region, but explained that wider approaches were sometimes needed in the face of the plethora of other legislative and regulatory obstacles governing both citizens and non-citizens.

16. UNHCR's presence in the region was raised with respect to successful legislative capacity-building efforts in Central and Eastern Europe. A number of delegations underlined the importance of UNHCR's cooperation with other institutions, particularly the European Union, and welcomed progress made, while at the same time calling for further efforts. Such efforts, the Deputy Director responded, were ongoing, but better results would take time.

17. Delegations welcomed UNHCR's position on Iraqi asylum-seekers, which calls for full recognition of the refugee component of their movement and their need for international protection. One delegation noted the nature of the mixed flow from Iraq and emphasized the concern for the humanitarian element in the European Union Action Plan. An Observer delegation warned Governments against the "Fortress Europe" mentality which had underpinned the European Union's Action Plan on Iraqis, and another delegation reminded participants of the values of hospitality, solidarity and subsidiarity upon which European policies have traditionally been built. One delegation reminded the meeting of its hospitality with respect to Iraqis and said it had resolved some differences with UNHCR over how to treat "illegal refugees" (those who had not registered within the five day period stipulated in the law), granting an amnesty to some 3,000 such people.

18. There was support for UNHCR's position on Algerian asylum-seekers and a plea that their asylum requests be treated generously. The position taken by several Nordic countries to include those persecuted by non-state agents within the purview of the 1951 Convention was welcomed by another delegation.

19. Several delegations requested clarification and improvement of statistics presented in the report; one or two asked for corrections or clarifications. One delegation objected strongly to comments made by UNHCR in the report that the Austrian asylum law had significant problems and maintained that the Office had read the text of the law "selectively". The same delegation also felt that hospitality toward Bosnian refugees had been underplayed. The Deputy Director promised to consult and respond on both points.

B. Regional developments in the former Yugoslavia

20. The Coordinator of UNHCR's Former Yugoslavia Liaison Unit introduced EC/48/SC/CRP.10, updating delegations on new developments and projections on future developments.

21. Delegations reiterated their full support to UNHCR and its important role to promote and facilitate returns. Respect for the fundamental right to return and the full commitment to Annex 7 of the Dayton Peace Agreement by all parties were, once again, emphasized, including security and freedom of movement, as well as employment opportunities. One Observer (NGO) appealed for increased support to their activities in the area.

22. It was indicated that the new leadership in the Republika Srpska gave hope for increased minority returns to that Entity and that it will be watched closely by the international community. The Coordinator stated, however, that despite these positive developments, minority returns remain limited. Delegations welcomed the promotion of minority returns as a priority for UNHCR in 1998. There was general agreement with UNHCR for a regional approach to returns as well as the linkage between repatriation and return, and rehabilitation and reconstruction. The Regional Return Conference in Banja Luka on 28 April was highlighted as an illustration that solutions are inter-linked.

23. The recent incidents in Derventa and Drvar led a few delegations to urge caution in future in regard to minority returns. However, most delegations, while condemning these incidents as unacceptable, recommended that they should not constitute a set-back in the overall positive developments.

24. Full support to the Open Cities initiative was reiterated and described as an essential tool for returns and to ensure a multicultural society. Two delegations underlined the importance of conditionality and giving preference to communities that genuinely accept multi-ethnicity. It was hoped that other municipalities, in particular larger cities such as Sarajevo, Banja Luka and Mostar, will soon join the Open Cities programme. The work of the Commission for Real Property Claims of Displaced Persons and Refugees and the need to make progress on demining were highlighted as being important elements to the return process.

25. Many delegations urged the Government of Croatia to cooperate and to adopt a more constructive attitude towards a multi-ethnic society. It was reiterated that the international community expects the Government of Croatia to take full responsibility for the unconditional return of all refugees and displaced persons who wish to return, regardless of their ethnicity, as well as for the creation of a safe environment for those ethnic Serbs who wish to stay.

26. Several delegations found it disturbing that most of the Croatian Serb refugees in the Federal Republic of Yugoslavia and in Bosnia and Herzegovina cannot return to Croatia because of bureaucratic obstacles and an unfavourable attitude. A number of delegations described the continuing outflow of Croatian Serbs from the Croatian Danubian region as a source of concern.

27. Some delegations also expressed concern about the growing tension and displacements in Kosovo, as well as the first displacements of Kosovo Albanians across the border, into Albania. UNHCR's appeal of 9 March 1998 not to return rejected asylum-seekers from Kosovo for the time being, was generally supported and followed. Delegates called for dialogue between the parties involved.

VI. PROTECTION/PROGRAMME POLICY ISSUES

28. This agenda item and its related documentation (EC/48/SC/CRP.15 and EC/48/SC/CRP.16) was introduced by the Director of the Division of Operational Support, referring to earlier discussions of the Standing Committee on reintegration challenges. The Director, in his opening remarks, announced the possibility to organize an informal meeting with the Members of the Standing Committee later in the year on the more technical aspects of reintegration and self-reliance.

29. A number of delegations expressed their keen interest in discussing policy, as well as the operational aspects of reintegration at the proposed informal meeting.

30. Generally supportive of UNHCR's catalytic role in reintegration operations, a number of delegations called for an enhanced operational cooperation with other United Nations agencies, especially the Office for the Coordination of Humanitarian Affairs (OCHA). An elaboration on UNHCR's views on the possibilities for coordination with a country's UNDAF (United Nations

Development Assistance Framework) was also requested by some delegations. Disappointment was expressed by some delegations that the documentation provided to the Standing Committee did not set out clear parameters or a policy for UNHCR's involvement in reintegration activities. The view was expressed that consultations (based on a concise discussion paper) should address this issue, with an aim to adopt a decision in the very near future, preferably at the next session of the Standing Committee. This would form the basis for an action plan, comprising, *inter alia*, operational guidelines. One delegation expressed disagreement with this time frame. Several delegations linked the role of UNHCR in reintegration operations to the current financial situation of the Organization and went on to suggest that the comprehensive policy document soon to be drafted take into consideration the financial situation of UNHCR. Several delegations felt that the issues as such should be addressed, leaving aside the consideration of resource questions.

31. Considerable attention was also given by a number of delegations to the close links that should be established between UNHCR and the United Nations High Commissioner for Human Rights (UNHCHR) in the monitoring of the situation in the country of origin after the voluntary repatriation of refugees.

32. Regarding phase out strategies, several delegations underlined the importance for UNHCR to take into consideration the current financial constraints, while others called for strategies that are based on operational considerations rather than on predetermined dates and financial resources. The point was also raised that coordination should be sought not only with international development actors, but first and foremost with the relevant local communities, NGOs and Governments, the last having the primary responsibility for a sustainable reintegration process. The need to strengthen the UNHCR operational capacity for planning and training of partners in the field of reintegration was also stressed.

33. In response to the interventions, the Director commented that UNHCR's primary concern in reintegration activities revolved around its mandate. The Director called for an earlier involvement of development actors to "meet" UNHCR in the humanitarian space between relief and development. He went on to inform the Standing Committee that an "Operational Framework for UNHCR intervention in Repatriation/Reintegration" was under preparation within the Division, focusing precisely on enhanced cooperation with other actors in the reintegration process. The envisaged consultations on fundamental questions and technical aspects would allow input into this document. The Senior Economist/Planner (Reintegration and Self-Reliance Unit), briefly addressed the more technical issues raised by the delegates.

VII. COORDINATION ISSUES

34. The Head of UNHCR's Inter-Organization Affairs and Secretariat Service (IOASS) introduced the conference room paper on the *Follow-up to the Secretary-General's United Nations Reform Proposals and related ECOSOC Decisions* (EC/48/SC/CRP.15). Following this introduction, the Deputy to the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator provided delegations with an update on the ongoing restructuring process within the Office for the Coordination of Humanitarian Affairs and the efforts to strengthen emergency relief coordination efforts within United Nations system.

35. One delegation requested clarification on the role of the United Nations Development Assistance Framework (UNDAF) as compared to the "Strategic Framework". Another delegation enquired as to UNHCR's role with respect to the UNDAF. UNHCR's views on the Guiding Principles on Internal Displacement, prepared under the direction of the Representative of the Secretary-General on internally displaced persons, were called for. In addition, the need for a further elaboration on field coordination options, as stated in the conference room paper (paragraph 16), was questioned by a delegation, stating that the current three options were clearly defined. With regard to the safety of humanitarian staff, one delegation expressed the hope that training and the establishment of field coordination units would enhance the safety of staff.

36. In response to delegations, the Head of IOASS provided further clarification on the UNDAF, stating that the UNHCR protection mandate, however, would not be included within the purview of this coordination mechanism. The Deputy to the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator informed delegations that the translation of guiding principles on internally displaced persons into operational guidelines was currently being undertaken as a priority, but that the protection of internally displaced persons remained an issue that needed to be further addressed.

VIII. OVERSIGHT ISSUES

37. The Standing Committee had before it a document entitled *Oversight Issues: Consultants* (EC/48/SC/CRP.14). The Director of UNHCR's Division of Human Resources Management introduced the item.

38. In their interventions, a number of delegations noted that the proportion of women hired as consultants in 1996 and 1997 was 35 per cent, the same proportion as among UNHCR professional staff, and recommended more efforts to attain gender balance. Several delegations remarked on the statistics provided in paragraph 25 and in annex 3 to the conference room paper, noting that only one third of consultants come from developing countries. They urged that broader geographical representation be aimed for, especially since the majority of UNHCR's programmes are in developing countries affected by refugees/returnees.

39. The delegations touched on the issue of the consultant selection process, the use of rosters and the publication of, and/or access to, information about available consultancies in order to ensure an open, fair, equitable and competitive process. Delegations also asked to know the annual budget for consultants. Three delegations raised the issue of UNHCR's use of consultants as compared with the skills available amongst its staff. Acknowledging that consultants are hired for relatively short periods and that there is no continuing need for their services, these delegations felt that UNHCR (especially in the light of staff reductions) should build the capacity of existing staff to take on the functions performed by consultants, for example in the area of external relations (reference to paragraph 12 of EC/48/SC/CRP.14). One delegation asked specifically how and for what purpose consultants were graded. Another delegation asked what action had been taken in response to the external auditors' questions. Specifically, this was in reference to the issuance of more up-to-date instructions and guidelines related to the use of consultants.

40. The Director responded to delegations questions and comments, stating that UNHCR is continually striving to broaden the selection base and rosters are extensively used in the search for technical consultants particularly those with a proven track record.

41. Decentralization of the responsibility for administering consultants to the technical line departments was highlighted as a way to ensure that existing rosters of qualified proven consultants in those departments will be continued, as well as a central computerized roster. The need to continue to try to attain gender balance and a wider geographic balance was acknowledged.

42. The annual cost of consultancies internationally contracted in 1996 was reported as \$ 1.9 million and in 1997 \$ 1.8 million. These figures exclude local consultants engaged under operational projects.

IX. GOVERNANCE ISSUES

43. The Standing Committee reviewed two issues under this item: preliminary consideration of the Annual Theme for the forty-ninth session of the Executive Committee and a review of Executive Committee working methods.

44. In introducing discussions on the preliminary consideration of the annual theme, the Chairman called on the Secretary to inform delegations of suggested topics for the annual theme, including those sent by delegations to the Secretariat. The Secretary informed delegations that interest had been expressed for looking into "international solidarity and burden-sharing", "UNHCR's reintegration assistance", or "international cooperation from the point of view of lessons learned from comprehensive or regional approaches to the refugee problem".

45. Several delegations voiced support for the proposed theme of "international solidarity and burden-sharing". One delegation suggested that "reintegration assistance" be adopted as the annual theme. Another delegation suggested "international cooperation, lessons learned from comprehensive and regional approaches", but stated that further consultations on this suggestion would be undertaken before final consideration of the topic at the June meeting of the Standing Committee.

46. The Chairman then turned delegations' attention to the issue of Executive Committee working methods, referring to the last plenary session of the Executive Committee, where it was agreed to review the working methods in the course of 1998. The intention of this review, he pointed out, was to fine tune and enhance guidelines currently in place. He highlighted four areas which he suggested might merit from such a review: the process of drafting decisions and conclusions for the Executive Committee; the process for determining the programme of work, aiming at efforts to rationalize the large volume of documentation that is presented to delegations; a review of reporting on programmes and their implementation; and the relevant impact of documentation. The Chairman suggested that consultations could be held to examine this issue further.

47. In their interventions on this issue, two delegations stated that the current working methods posed no significant problems to the proper functioning of the Executive Committee. Other delegations supported the Chairman's suggestion for further consultations on this issue, highlighting areas where improvements could be examined, in line with the Chairman's proposals.

X. MANAGEMENT, FINANCIAL AND HUMAN RESOURCES MATTERS

48. Under this agenda item, the Standing Committee had before it three conference room papers: *Overhead Costs of International NGO implementing Partners* (EC/48/SC/CRP.18) and a related decision; *Staff Training in UNHCR: An Update on Recent Developments* (EC/48/SC/CRP.19); and an *Update on the Change Management Process* (EC/48/SC/CRP.17). In addition a *Information Note on Income and Expenditure for the Year 1997* (EC/48/SC/CRP.20), was before the Standing Committee for consideration. The Directors of the Division of Operational Support and the Division of Human Resource Management provided introductions to the items.

49. Due to time constraints, the Chairman proposed that unless delegations had significant interventions to make, the draft decision attached to EC/48/SC/CRP.18 be adopted by the Standing Committee. One delegation agreed that the decision should be adopted without debate but stated that a written statement had been prepared for this agenda item which should be reflected in the report of the meeting. This statement drew attention to the need for UNHCR to ensure that established policy is implemented in a consistent fashion and the need for some clarification of the concept of "large scale local procurement" as one element to be taken into consideration when determining the level of reimbursement of overhead costs. Furthermore, the nature of the required contribution from NGOs to the related UNHCR programme was another issue raised in this statement which needs further clarification.

50. One Observer (NGO) stated that the NGO community broadly endorsed both the conclusions reached by UNHCR on the difficulties experienced in implementing the policy on NGO headquarters support costs and the recommendation in the conference room paper that UNHCR maintain its current policy in this regard. He called for the establishment of a joint NGO/UNHCR working group to further clarify the policy so that differences in its interpretation could be overcome before 1999 project agreements are negotiated.

51. The Standing Committee adopted the draft decision attached to EC/48/SC/CRP.18 (annex).

XI. ANY OTHER BUSINESS

52. There being no further business, the Chairman closed the meeting.

DECISION ADOPTED BY THE ELEVENTH STANDING COMMITTEE

OVERHEAD COSTS OF INTERNATIONAL NGO PARTNERS

The Standing Committee,

Recalling its decision taken at the second meeting of the Standing Committee (10-11 April 1996) on the subject of overhead costs of NGO implementing partners (EC/46/SC/CRP.27) in which it was decided that UNHCR should, subject to certain conditions, participate in bearing headquarters support costs of international NGOs;

Recalling further the decision taken by the Standing Committee at its third meeting (25-27 June 1996) that the basis for such participation would be 5 per cent of project costs funded by UNHCR (EC/46/SC/CRP.42 para. 61);

(a) Decides that UNHCR shall continue to participate in bearing headquarters support costs of international NGOs;

(b) Decides that the current, standard percentage of 5 per cent shall be maintained for the next two years and reviewed again during the first half of 2000.



General Assembly

Distr.
GENERAL

A/AC.96/898
3 July 1998

Original: ENGLISH

EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME

Forty-ninth session

NOTE ON INTERNATIONAL PROTECTION

I. INTRODUCTION

1. There is a natural complementarity between the protection work of UNHCR and the international system for the protection of human rights. The protection of refugees operates within a structure of individual rights and duties and state responsibilities. Human rights law is a prime source of existing refugee protection principles and structures; at the same time, it works to complement them.

2. The Executive Committee drew attention in its General Conclusion on International Protection (A/AC.96/895, paragraph 18) and in its Conclusion on Safeguarding Asylum (A/AC.96/895, paragraph 19), adopted at its forty-eighth session, to the fact that a comprehensive approach to refugee protection comprises, *inter alia*, respect for all human rights. It also underlined the obligation of States to treat asylum-seekers and refugees in accordance with applicable human rights and refugee law standards, as set out in relevant international instruments. At the same session, the Executive Committee requested a discussion on the relationship between human rights and refugee protection.

3. Against this background, this Note reviews developments in refugee protection over the past year, linking them to the related human rights standards. In the last analysis, the entire refugee experience, from forcible displacement, through the search for asylum, to the securing of a durable solution, is an important indication of the respect accorded to basic human rights principles worldwide. It provides an illustration of the continuing gap between the theory and the practice, and constitutes a measure of what is yet to be achieved.

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II. CAUSES OF REFUGEE FLOWS

4. The root causes of refugee displacement are inextricably linked to conflict, persecution and the denial of human rights. These causes are not mutually exclusive. Persons displaced by war or conflict can legitimately fear persecution. War may well be the very instrument of persecution, the method chosen by the persecutors - whether part of the State apparatus or not - to repress or eliminate entire groups of people because of their ethnicity or other affiliations. The conflicts in the former Yugoslavia and in the Great Lakes region of Africa are striking examples of situations where violence has been employed as a means to persecute specific communities, and where ethnic or religious "cleansing" has been the ultimate purpose of waging war.

5. Persecution always involves some form of discrimination. Victims of persecution are targeted because they have a particular racial or national background, or because they hold certain religious beliefs or political opinions, or because they are members of a particular social group. It was in recognition of this fact that the fundamental human right to non-discrimination, affirmed in the Charter of the United Nations and the Universal Declaration of Human Rights, was evoked in the first paragraph of the Preamble to the 1951 Convention.

6. Persecution commonly takes the form of violations of the rights to life, to liberty and to security of the person - including through torture or cruel or inhuman treatment or punishment - motivated by race, religion, nationality, membership of a particular social group or political opinion. In addition, individuals who are denied the enjoyment of other civil, political, economic, social and cultural rights may have a valid claim for refugee status where such denial is based on any of the relevant grounds, and its consequences are substantially prejudicial for the person concerned to the point where daily life becomes intolerable. Serious, particularly cumulative, violations of the rights to freedom of opinion and expression, to peaceful assembly and association, to take part in the government of the country, to respect for family life, to own property, to work and to an education, among others, could provide valid grounds for refugee claims.

III. THE RIGHT TO SEEK AND ENJOY ASYLUM

7. The right to seek and enjoy asylum from persecution is recognized in Article 14 of the Universal Declaration of Human Rights. It has been repeatedly affirmed, including through resolutions of the United Nations General Assembly, as being of critical importance to refugee protection. Asylum serves the dual purpose of providing a predictable and structured framework for the international protection of persons whose safety is at considerable risk, while ensuring, at the same time, that appropriate and lasting solutions - be they voluntary repatriation, local integration or resettlement - can be implemented. The Executive Committee has regularly reaffirmed the need fully to respect the institution of asylum, and has called upon States to use their best endeavours to grant asylum to refugees.

8. The following paragraphs raise generally aspects of the right of asylum which have remained of concern or have come into particular focus over the reporting period.

A. Risks in flight

9. The right to seek asylum is seriously impaired where asylum-seekers have no safe means of departure. During flight, asylum-seekers are not protected by any State. Many asylum-seekers must leave their countries clandestinely, putting themselves and often their families at great personal risk. Asylum-seekers who take to the ocean in unseaworthy vessels, often having spent all their resources to pay unscrupulous traffickers, just as those forced to trek hundreds of miles overland in deplorable conditions to reach safety, do so at great peril. It is not known how many refugees have perished over the past year for these reasons, although there have been some stark indications that the number might be considerable. A new wave of "boat people" has, for example, been witnessed, originating from various countries in several different parts of the world, and with increasing frequency leading to significant loss of life. Stowaway asylum-seekers, who put their safety, and sometimes even their lives, at risk to hide themselves on ships or airplanes, only to be denied the possibility to disembark and have their claims heard, have also been a recurring protection concern.

B. The Principle of non-refoulement

10. The right to seek asylum requires that persons fleeing persecution or danger be admitted, at least on a temporary basis, somewhere. One essential component of the institution of asylum is the principle of *non-refoulement*. This principle, embodied in Article 33 of the 1951 Convention, prohibits the expulsion and return of refugees in any manner whatsoever to the frontiers of territories where their lives or freedom may be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion. *Refoulement* can take a number of forms, including non-admission at the frontier and interdiction at sea.

11. Although the term "*non-refoulement*" traditionally has been associated with refugees, it has found a parallel meaning and expression in broader human rights instruments. The 1984 United Nations Convention against Torture prohibits the expulsion of persons to any country where they may be subjected to torture. Other instruments also incorporate this meaning of the principle of *non-refoulement* to the extent that they prohibit torture or cruel, inhuman or degrading treatment or punishment, and this prohibition has been interpreted to include prohibition of the removal of persons to countries where they may be subjected to any such treatment. In practice, this complementary development of the *non-refoulement* principle is adding a new avenue of protection for persons either erroneously rejected for refugee status or with clear protection needs whose circumstances are nevertheless not directly addressed by the 1951 Convention. The *non-refoulement* principle as it is being interpreted and applied in the human rights instruments is, however, somewhat different in scope from the *non-refoulement* refugee protection. The areas of complementarity, as well as of difference, need further examination.

12. UNHCR welcomes the fact that many States have continued to respond generously by receiving asylum-seekers onto their territories and providing, as needed, for their interim protection. However, there have been a number of incidents during the reporting period of rejection of asylum-seekers at the frontier without the persons concerned having been provided with access to fair and efficient procedures for determining protection needs. There have

also been summary expulsions of asylum-seekers, occasionally *en masse*, without a proper assessment having been made of their protection needs.

13. There have been particularly serious violations of the principle in some regions, especially, but not exclusively, in the Great Lakes region of Africa. Large numbers of asylum-seekers and refugees have been victimized, amongst them many women and children, with some appalling consequences. The expulsions were in some cases carried out in spite of strong representations by a number of States, including States members of the Executive Committee, as well as by UNHCR. In one case, which unfolded over a three-month period, some 4,400 persons of concern to UNHCR were forcibly returned to their country of origin. In another, some 2,000 persons were expelled back to their country, over a similar time period. In a third incident, about 400 persons were forcibly returned to their country of origin. Another occurrence involved about 500 persons. These are but examples of the large-scale *refoulements* which took place over the past year.

14. In addition, a number of instances of *refoulement* of individual asylum-seekers were brought to the attention of UNHCR during the reporting period. In some cases, the *refoulement* was indirect, for example, the asylum-seeker was removed to a third country from where that person was further removed to his or her country of origin, and was the unfortunate result of the inappropriate application of the so-called "safe third country" notion. If the removal of the asylum-seeker to a third country is carried out without a proper evaluation of safety conditions in that country and without sufficient assurances that the country will admit the person to its territory and will consider the asylum claim, there must always be a clear risk that the asylum-seeker will eventually be returned to the country of origin.

C. Access to procedures

15. The right to seek asylum also requires that individual asylum-seekers be given access to fair and efficient procedures for the determination of their claims. UNHCR welcomes the fact that, during the period under review, a number of States have adopted legislation to implement the international refugee instruments, or are in the process of adopting such legislation. Some States have undertaken reviews of their legislation during the same period, in order to ensure balanced determination criteria as well as to make procedures fairer and more efficient. UNHCR was often called upon, during the year, to contribute its expertise to the process of State reflection which preceded the adoption of a refugee law. UNHCR has much appreciated the cooperation with States in this regard.

16. The Office has, though, been concerned about some recent legislative initiatives and administrative practices designed apparently to restrict access to full refugee determination procedures. UNHCR shares the concern of States about the misuse of asylum procedures, particularly as this can undermine protection possibilities. However, it is also the Office's experience that exclusive resort to measures to combat abuse, without balancing them by adequate means to identify genuine cases, can lead to *refoulement* of refugees. Developments over the reporting period which gave rise to some concern included:

- (a) The denial by some countries of access to asylum procedures for asylum-seekers who lack documentation;

- (b) The imposition of unreasonable time-limits for the filing of asylum requests;
- (c) The return of asylum-seekers to third countries of transit or of previous stay, without proper guarantees of accessibility to safety in the third country, or that the third country will readmit the asylum-seeker and will consider his or her claim;
- (d) The taking of decisions on returns in some cases by inexperienced and untrained border officials, without reference to a central authority;
- (e) The inappropriate application of the notion of "manifestly unfounded claims", to channel through accelerated procedures claims that raise complex substantive issues (such as those connected to the application of exclusion clauses), or that require an in-depth consideration of objective and subjective factors (such as the evaluation of credibility or the application of the concept of internal flight alternative.)

17. Special problems arise in cases of large-scale influxes. Clearly, here, individual status determination procedures may have no immediate place, and a different approach may be called for if the aim of extending effective protection to all those who need it is to be met. Mass influxes impose particular burdens on receiving countries, who are often those least able, for economic and development reasons, to shoulder these burdens. Arrangements which recognize the unquantifiable social, political, environmental, security and other costs to host countries should be elaborated and implemented, in order to ensure a balanced sharing of responsibilities, so that the burden on any one country does not become too onerous.

18. Temporary protection regimes have been put in place in some parts of the world to ensure protection in mass influxes on a short-term basis. UNHCR agrees that temporary protection is a useful response to displacement such as, for example, the outflow from the former Yugoslavia. It is, though, not suitable for all situations, and should not become a substitute for the right of refugees to seek and enjoy asylum in accordance with internationally agreed standards. UNHCR is particularly concerned by recent efforts in some countries to develop temporary protection as a response to arrivals of individual asylum-seekers, with the effect of limiting access to refugee status determination procedures and the full range of refugee protections to which individual refugees would otherwise be entitled.

D. Standards of treatment

19. The events in the Great Lakes region of Africa over the last year perhaps more graphically than any other recent refugee experience brought to the fore the issue of standards of treatment of refugees. Large numbers of people - refugees and returnees included - were killed or deported, despite the efforts of the international humanitarian community, and in total disregard of international, regional and even national human rights and refugee protection standards. Adherence to the instruments which set these

out, and accountability for their full and non-discriminatory implementation, clearly demand much more rigorous international promotion.

20. The 1951 Convention, together with its 1967 Protocol, set out carefully crafted basic minimum standards of treatment. The most basic treatment to which refugees are entitled is not to be returned or sent back to a territory where their lives or freedom are threatened. The *non-refoulement* protection has been examined in earlier paragraphs. The Convention in its entirety covers a wider range of rights, of which some are also general human rights, and some are specific refugee rights. The Executive Committee has repeatedly affirmed the fundamental importance of the Convention and its Protocol, and has called on States which have not acceded to them to consider doing so. UNHCR welcomes the recent accession to both instruments by Turkmenistan, and the lifting of the geographic limitation by Hungary. The number of States Parties to one or both of these instruments is now 136, as at May 1998.

21. The Convention and Protocol are not the only binding sources of international standards for the treatment of refugees. The 1969 Organisation of African Unity Convention (OAU) Governing the Specific Aspects of Refugee Problems in Africa complements the 1951 Convention at the regional level, providing an extended definition of the notion of refugee and dealing with asylum and repatriation. Furthermore, as any other individuals, refugees are entitled to be treated in conformity with internationally recognized human rights standards. The 1951 Convention specifically states that its provisions shall not be deemed to impair any other rights and benefits granted by a Contracting State to refugees. At the same time, the 1951 Convention, the 1969 Organisation of African Unity Convention and international human rights instruments recall that individuals owe duties to the State and to the community. Article 2 of the 1951 Convention provides that refugees must, in particular, conform to the laws and regulations of the country in which they find themselves, as well as to measures taken for the maintenance of public order. Consonant with this provision, Article 33 (2) of the Convention specifies that protection against *refoulement* may not be claimed by refugees whom there are reasonable grounds for regarding as a danger to the security of the country in which they are, or who, having been convicted by a final judgement of a particularly serious crime, constitute a danger to the community of that country.

22. The following paragraphs examine some of the relevant standards of treatment where particular concerns have arisen during the reporting period.

Physical security

23. The right to physical security is embodied in universal and regional human rights instruments and is of the essence of refugee protection. Violations of the physical security of asylum-seekers and refugees have occurred during flight, after entry in an asylum country and, on occasion, following return to their country of origin. Military and armed attacks on refugee camps and settlements, as well as violence against individual refugees and returnees living in urban centres, posed a continuing threat to the physical security of refugees during the reporting period. Attacks resulting in considerable loss of life took place in several countries in Africa, Asia and Europe. In one incident, over 200 refugees were killed and about the same number were wounded. In another attack on a returnee area, about 150 persons were killed. In a series of several attacks on a refugee

camp in Asia, more than 50 houses were burnt down, three refugees were killed and many more were wounded. In one community setting in Europe, at least 50 returnee houses have been burnt and two returnees murdered in on-going violence and harassment since the beginning of this year. In another, returnees threatened by residents had to be evacuated temporarily. Following several security incidents in one part of Africa, UNHCR had to evacuate by air a number of refugees whose physical integrity was gravely threatened.

Non-discrimination

24. Discrimination plays a role in the genesis of refugee movements. In addition, refugees may become the victims of discriminatory treatment in the country where they seek or where they have been granted asylum. The drafters of the 1951 Convention adopted as one of the central principles of international refugee protection the principle of non-discrimination. It is embodied in Article 3 of the Convention as one of the non-derogable articles.

25. Asylum-seekers and refugees are discriminated against in a number of countries, in many ways. Discrimination has sometimes taken the form of denial of asylum to persons because of their specific nationality. Discrimination in treatment of asylum-seekers, based on ethnic or religious grounds, has also been experienced. As insidious as official discrimination is discrimination at the community level in asylum countries, based on xenophobia and prejudice among elements within the local population. Refugees and asylum-seekers have remained the target of racially motivated attacks in a number of countries. Appropriate strategies and measures to combat social discrimination and intolerance still need to be developed at the governmental level.

Freedom of movement

26. Universal and regional human rights instruments affirm the basic human right to liberty and prohibit arbitrary detention. Article 31(2) of the 1951 Convention limits restrictions on the freedom of movement of asylum-seekers unlawfully in the territory to those which are necessary. Many countries continue to detain asylum-seekers for indefinite periods following a purely administrative decision and without adequate provision for timely review of any continuation of the detention. This is a widespread problem, involving a practice which not only is inconsistent with conclusions and recommendations of the Executive Committee, but, in some cases, is aggravated by unacceptable conditions of detention. Often asylum-seekers are held together with criminals, sometimes the most hardened. UNHCR is particularly worried by the practice in some countries of keeping minor asylum-seekers in detention, and the fact that, in a number of countries, the Office is not granted adequate access to asylum-seekers in detention. Alternatives to detention should be explored which would allow States to meet by other means their legitimate concern that asylum-seekers not disappear in the course of the status determination process.

Family unity

27. The 1951 Conference of Plenipotentiaries unanimously acknowledged that the unity of the family is an essential right of the refugee, and recommended that Governments take necessary measures for the protection of the refugee's family. The principle of family unity is recognized as a fundamental human

right in the Universal Declaration of Human Rights and has been incorporated into a number of international and regional instruments, including the Convention on the Rights of the Child. Conclusions of the Executive Committee have stressed, *inter alia*, the need to ensure reunification with the least possible delay, to encourage the application of liberal criteria in identifying eligible family members, to respect family unity in situations of large-scale influx, and to make appropriate tracing efforts.

28. UNHCR has been seriously concerned over the reporting period about the fact that many countries continue to deny refugees the right to family reunion. In some countries in different parts of the world, there is no provision in legislation or administrative policy for the realisation of this right. In other countries, denial results from legislative requirements which do not adequately distinguish the special circumstances of refugees from those of aliens generally. Refugees are accordingly required to meet conditions which their circumstances make it impossible for them to fulfil. Avoidable lengthy delays in the reunification of families are inconsistent with the protection of the right. The separation of refugee families leads to grave hardships for all, especially for children, and can have permanent negative consequences for the integration of refugees in their country of asylum.

Treatment of women and children

29. UNHCR has also been concerned about the dangers to which refugee women are regularly exposed. In several parts of the world women fleeing their countries have suffered particular indignities and threats, notably sexual violence, perpetrated by bandits, combatants and sometimes even by fellow asylum-seekers or the officials who might reasonably have been expected to protect them. Instances of physical violence and sexual abuse against women, particularly in camps, have been reported in several countries. In one camp, sixteen rapes were reported during a nine-day period at the beginning of 1998. Women have also been forced into prostitution in exchange for basic necessities. Outside camp environments, women refugees have faced a range of practical difficulties, often as a result of discrimination against women in general. In some countries, for example, it is difficult for refugee women to access judicial or legal procedures, to obtain their own documentation certifying their status as refugees, or, as appropriate, to become citizens of their asylum country in their own right.

30. UNHCR continues to explore ways to address these problems, including by better operationalization of the Office's guidelines on the protection of refugee women and on sexual violence, as well as the use of resettlement as a protection tool for women at risk. Lessons learned from recent projects suggest that a small-scale community-based approach may be one effective way to foster rights protection. UNHCR's Women's Initiatives in both Bosnia and Herzegovina and Rwanda, encouraging income-generation and economic empowerment of women, are instructive examples of community-based approaches to promoting rights.

31. Protecting refugee children, especially in camps, continues as well to pose particular difficulties. Forced recruitment of young persons, often minors, into regular or irregular armed forces is a particular problem in some countries where refugee camps or settlements are specifically targeted. Unaccompanied minors are very vulnerable in this regard, in the absence of

family support. These and other problems, including child prostitution and underage pregnancy, have been compounded over the reporting period by the denial to UNHCR of access to certain refugee populations.

32. Legal standards, important as they are, must be buttressed by changing attitudes and effective opportunities for advancing rights. The project known as Action on the Rights of Children, or ARC, a Government-sponsored joint UNHCR/NGO initiative holds out promise in this regard. It is built around a series of training modules on the rights of the child, including a module on prevention of recruitment and demobilization, as well as a scheme for their dissemination and delivery.

The Problem of Statelessness

33. The right to a nationality is articulated in various universal and regional human rights instruments. It is also the basis for two international conventions on statelessness, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Although the causes of statelessness often are different from those which give rise to refugee displacements, stateless persons face many of the same problems and disabilities as do refugees. UNHCR has been designated under Article 11 of the 1961 Convention on the Reduction of Statelessness to assist persons wishing to claim the benefit of that instrument. Furthermore, the Executive Committee has recognized the connection between statelessness, displacement and refugees, and has encouraged UNHCR, in addition to its responsibilities for the reduction of statelessness, to work to address statelessness problems more generally. In this context UNHCR has, for example, been called upon to promote accessions to the two statelessness conventions.

34. Over the reporting period UNHCR has had to respond to a growing number of statelessness problems, both of individuals and groups. Particular attention has been given to the situation of children of refugees born in asylum countries, who confront the real prospect of statelessness if appropriate registration practices are not followed. Increasingly, too, its expertise has been drawn on by States who are in the process of putting in place a regulatory framework to address statelessness problems and prevent their recurrence. The work of the Office on behalf of stateless people has also included assistance to forcibly displaced groups to return to their original homeland, to obtain citizenship and to reclaim former property.

IV. THE RIGHT TO RETURN

35. Human rights standards are of direct significance in the search for and implementation of lasting solutions for refugees and other forcibly displaced persons. In the return of refugees to their countries of origin, these standards help to define the conditions for safe and dignified voluntary repatriation and for reintegration. They are also the framework for rebuilding the human rights protection capacities of these countries, which is so fundamental to achieving reconciliation and ensuring sustainable return.

36. It is generally accepted that voluntary repatriation, where possible, is the most desirable lasting solution to any given refugee situation. The right to return to one's own country, laid down in Article 13 (2) of the

Universal Declaration, is evidently a key right for those who wish to repatriate. In promoting or facilitating as well as monitoring the repatriation of refugees, the role of UNHCR is to ensure respect for the voluntary character of repatriation, to enable refugees to return to their homes in safety and dignity, and to work to ensure that the return has every chance of being sustainable. The functions of the Office include monitoring returns and the reintegration process in their countries of origin. Monitoring presupposes that UNHCR will be provided with access to returnee populations, which unfortunately has not always been the case. In some countries the authorities have not allowed UNHCR to be present; in others, presence is curtailed by unstable security conditions, where humanitarian workers, including UNHCR staff, may be specifically targeted for violent attacks. The Executive Committee has expressed its concern about threats to UNHCR staff and other humanitarian workers, and, during its forty-eighth session in 1997, it condemned all such acts and called upon States to take all possible measures to combat them.

37. In the period since the last session of the Executive Committee, there has been considerable progress in repatriation programmes, with the active cooperation and support of concerned Governments. The period has seen the successful completion of a four-year repatriation operation for some 60,000 Tajik refugees who fled into northern Afghanistan in 1992 to escape civil war. Likewise, the repatriation and reintegration of Guatemalan refugees from Mexico is entering its final phase. UNHCR has also initiated the repatriations of Niger refugees from Algeria and of Malian refugees from Niger. Currently there are ongoing operations to assist returns from Thailand to Cambodia, from Bangladesh to Myanmar and from several West African countries to Liberia.

38. Corresponding to the refugee's right to return is the obligation of the State to accept back its citizens. Some countries continue to restrict the right of their citizens to return. This is achieved either outright or through a myriad of laws, regulations and administrative practices which have the effect of creating serious obstacles to return. Actions resorted to have included restricting access to land or dwelling places for certain groups; the imposition of heavy taxes or customs fees on those wishing to return with belongings; the discriminatory application of amnesty laws after a war; and refusal to recognize or issue identification documents, or the imposition of extremely cumbersome procedures as the basis for obtaining them.

39. The right to a nationality is also particularly relevant for those who are returning, usually after the resolution of a war, to an area which formerly was part of a different state. The nationality legislation of emerging States has on occasion been drafted in such a way as to exclude from eligibility for nationality a number of former citizens, most commonly because of criteria based on ethnicity.

40. If returnees are successfully to reintegrate into the society of the country of origin, they must be able to work, to access education for their children, to benefit from welfare programmes and services, and to participate in the political and the cultural life of the community. Even where there are no overtly discriminatory practices limiting these important aspects of reintegration, in societies which are rebuilding themselves after violent conflict the economic, political and social context may work against the full exercise by returnees of these rights. The Executive Committee has recognized

the interest of UNHCR in the durability and consequences of return, and in effect laid the basis for some role for the Office in this regard. UNHCR is involved in comprehensive programmes of activities in several countries of return which serve to strengthen possibilities for the enjoyment of rights after return.

41. In a number of recent refugee situations, returnee children have been particularly impacted by reintegration problems. Children who need particular help in order to exercise their basic rights include ex-child soldiers, adolescents, girl mothers and child-headed households. Many of these children and adolescents have never known peace and stability; instead their lives have been filled with insecurity, violence and destruction. They face the possibility of re-recruitment into armed forces, being forced into harmful child labour or prostitution and other indignities. Ensuring that these children have access to adequate and appropriate educational opportunities and that community support mechanisms are put in place to address these risks is necessary. UNHCR and UNICEF are hoping soon to receive Government donor support to launch the Liberia Children's Initiative to implement a programme of such measures for returnee and internally displaced children in Liberia, who form an astounding 55 per cent of the displaced population.

42. Support to local efforts to rebuild confidence and respect for the process of law may be crucial to ensure the sustainability of the return. Examples over the past year include UNHCR's "Open Cities" initiative in Bosnia and Herzegovina, which operates at the municipality level to reward local communities which put in place fair laws and practices which do not discriminate against returnees. UNHCR has also assisted training of the judiciary and drafting of laws in Central and Eastern Europe which, for example, has helped returning deported peoples to reclaim property and citizenship.

V. LOOKING AHEAD - UNHCR AND HUMAN RIGHTS

43. UNHCR is charged with the obligatory, not discretionary, functions of providing international protection to, and seeking permanent solutions for the problem of refugees. Inherent in both is the fundamental responsibility of ensuring the safety of refugees. UNHCR actions are firmly based in and guided by universal refugee protection principles and international human rights standards, which reinforce the legitimacy of these actions and which are essential to the attainment of refugee safety.

44. Throughout the first four decades of the Office's existence, the structure of the international system and the nature of the situations generating refugee flows were such as to, if not facilitate, at least enable, UNHCR to carry out its activities largely in accordance with these principles and standards. Recent changes in the dynamics of the international system have, however, considerably increased the difficulties and complexities of the protection challenges facing the Office. One particular area of growing concern for UNHCR is the fact that it is more and more being confronted by circumstances in which basic principles and standards are either frequently violated, or flagrantly disregarded in their entirety.

45. Clearly there is still a gap between the theory of basic human rights and the ability of many people, including refugees, to enjoy these rights.

The challenge is to find ways to close, or at least narrow, this gap. This is not a challenge for UNHCR alone. A concerted effort is called for from all concerned parties - States, the United Nations and other international and regional organizations, as well as non-governmental organizations, and even community groups. The success of any such effort will always be directly proportional to the political will of States not only to put in place systems for the protection of basic rights, but to make them effective in practice, and to complement them by prevention activities which target discrimination and xenophobia, by education to combat prejudices and by public information campaigns to promote tolerance.

46. UNHCR has an integral role to play in this common effort, within the terms of its mandate, where violations of basic rights lead to displacement, jeopardize persons of concern to the Office or impede sustainable return. Proceeding from this understanding, UNHCR has over the past year intensified its cooperative involvement with system-wide human rights promotion activities and protection mechanisms, where this was judged to be of tangible benefit to refugee protection, or to addressing the root causes of flows. This cooperation has included support for national human rights institutions to strengthen local capacity to protect human rights; assistance in training the judiciary and government officials in refugee and related human rights concepts; and working along with non-governmental organizations to spread awareness of human rights instruments, principles and practices directly impacting on refugee situations. UNHCR has also intensified its cooperation with the human rights treaty implementation machinery, while at the operational level, a positive interaction is developing between the human rights field missions and UNHCR operations on the ground. At Headquarters, the cooperation between UNHCR and the Office of the High Commissioner for Human Rights has been very positive and is expanding.

47. In all these activities, UNHCR has been guided by its clear awareness of the complementarity but difference between the refugee specific mandate of UNHCR and the broader human rights mandates of other concerned organs and institutions, including the Office of the High Commissioner for Human Rights. The need to maintain the mutually supportive but separate character of respective mandates is particularly clear in the area of monitoring. While human rights monitoring missions must investigate and encourage prosecution of human rights violations, action in support of refugees and returnees is essentially humanitarian, involving confidence-building and creation of conditions conducive to peace and reconciliation. This being said, because the activities of human rights field missions are very relevant to UNHCR's work, UNHCR has been repeatedly supporting the need for a more operational human rights machinery as a necessary complement to its own protection efforts.

48. UNHCR will continue its efforts to achieve a better integration of the human rights work of the United Nations into refugee protection. By virtue of its activities on behalf of refugees and displaced persons UNHCR also promotes the purposes and principles of the United Nations Charter, which include encouraging respect for human rights and fundamental freedoms. This is a key part of its mission.